

Attorney Docket No.: DEX-0205  
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(b) a polynucleotide which, due to degeneracy in genetic coding, comprise variations in nucleotide sequence as compared to SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13, but which still encodes the same protein.

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#### REMARKS

Claims 1 and 3-6 are pending in the instant application. Claims 1 and 3-6 have been rejected. Claim 1 has been amended. Support for this amendment is provided in the specification at page 3, lines 2-6. Thus, no new matter has been added by these amendments. Reconsideration is respectfully requested in light of these amendments and the following remarks.

#### I. Rejection of Claims 1 and 3-6 under 35 U.S.C. § 102(b)

The rejection of claims 1 and 3-6 under 35 U.S.C. § 102(b) as being anticipated by Kato et al. (1983), Nucleic Acid Research, vol. 11, pages 8197-203 has been maintained. The Examiner suggests that the instant claims are still drawn to a nucleic acid sequence having at least 95% identity with an "antisense sequence" of SEQ ID NO:7 and an antisense from nucleotide 52-67 of instant SEQ ID NO:7 has 100% identity to the corresponding sequences in Fig. 2 at page 8200 of Kato et al. Accordingly, in an earnest effort to advance the prosecution of

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this case, Applicants have amended claim 1 to remove reference to nucleic acid sequences with 95% identity to an antisense sequence of SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13.

Instead claim 1 has been amended to be drawn to an isolated polynucleotide comprising SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13; or a polynucleotide which, due to degeneracy in genetic coding, comprise variations in nucleotide sequence as compared to SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13, but which still encodes the same protein. Support for this amendment is provided in the specification at page 3, lines 2-6. <sup>o/c</sup>

Since Kato et al. does not teach a polynucleotide comprising SEQ ID NO: SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13; or a polynucleotide which, due to degeneracy in genetic coding, comprise variations in nucleotide sequence as compared to SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13, but which still encodes the same protein, this reference cannot anticipate the claims as amended.

Withdrawal of this rejection under 35 U.S.C. § 102(b) is therefore respectfully requested.

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**II. Rejection of Claims 1 and 3-6 under 35 U.S.C. § 112, first paragraph**

Claims 1 and 3-6 remain rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner suggests that the instant claims do not sufficiently describe nucleic acids that are at least 95% identical to the sequences recited in the claims.

Accordingly, in an earnest effort to advance the prosecution of this case, Applicants have amended the claim 1 to delete this phrase and to state in accordance with the written description of the specification at page 3, lines 2-6 that the isolated polynucleotide comprises SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13; or a polynucleotide which, due to degeneracy in genetic coding, comprise variations in nucleotide sequence as compared to SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13, but which still encodes the same protein.

In accordance with MPEP § 2163, claims meet the written description requirement when the essential or critical features

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are adequately described in the specification or are conventional in the art or known to one of ordinary skill in the art. The essential feature of the claim, namely SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13, is adequately described in the specification while degeneracy of the genetic code and the understanding that variant sequences encoding the same protein will exist is well known and conventional in the art. Accordingly, the claims as amended meet the written description requirements of 35 U.S.C. § 112, first paragraph.

Withdrawal of this rejection is therefore respectfully requested.

### III. Conclusion

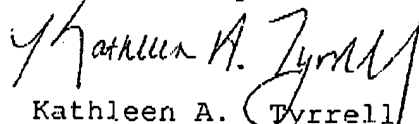
Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The

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attached page is captioned "VERSION WITH MARKINGS TO SHOW CHANGES  
MADE."

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

1. (thrice amended) An isolated polynucleotide comprising:
  - (a) SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13; or
  - (b) ~~a nucleic acid sequence which hybridizes under stringent conditions to an antisense sequence of~~ polynucleotide which, due to degeneracy in genetic coding, comprise variations in nucleotide sequence as compared to SEQ ID NO: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13, but which still encodes the same protein.